

Application No.: 10/597,800
Amendment dated 19 May 2011
Reply to Office Action of January 19, 2011
Docket No.: ICC-297/PCT/US (500-338 PCT/US)
Page 18

REMARKS:

Claims 1, 4-20, 22, 24, 26-28, 30-38 and 40-54 remain pending in the instant application. Favorable reconsideration is kindly requested.

Telephone Interview

Applicants gratefully acknowledge the courtesy of Examiner Bainbridge in granting a telephone interview to Applicants' representatives, held Thursday 19 May 2011. A summary of that interview is filed separately.

Amendments to the Application

The specification is amended above to correct minor and apparent typographical errors. The claims are amended above to overcome the objections and rejections of form only as noted below, to correct minor typographical errors and to improve readability, in accordance with the agreement reached in the above-noted interview.

Claims 23 and 29 are cancelled without prejudice or disclaimer.

No new matter has been added by the foregoing amendments.

Claim Objections

Claims 6-9, 22 and 24 are objected to for minor informalities. Specifically, claims 6-9, 22 and 24 each depended from a cancelled claim. By the above amendments, claims 6-9, 22 and 24 are each amended to depend from independent claim 1. No new matter has been added. Favorable reconsideration and withdrawal of the objection is kindly requested.

Claim Rejections Under 35 U.S.C. §112

Claims 6-9 are rejected under 35 U.S.C. §112, second paragraph, as indefinite for reciting "a nozzle according to claim 2". Claims 22 and 24 rejected under 35 U.S.C. §112, second

Application No.: 10/597,800
Amendment dated 19 May 2011
Reply to Office Action of January 19, 2011
Docket No.: ICC-297/PCT/US (500-338 PCT/US)
Page 19

paragraph, as indefinite for reciting “a nozzle according to claim 21”. Applicant respectfully submits that these rejections are overcome by the above-noted amendments.

Claims 23 and 24 are rejected under 35 U.S.C. §112, second paragraph, as indefinite where they recite “first and second ramps”. By the above amendment, claim 23 is cancelled without prejudice or disclaimer. Claim 24 is further amended to recite “said first set of external ramps and the second set of external ramps are each provided on a respective shoulder on the nozzle” (markup per 37 C.F.R. §1.121). No new matter has been added by this amendment. Applicant respectfully submits that the rejection has been overcome, and kindly requests favorable reconsideration and withdrawal.

Rejections Under 35 U.S.C. §103

Claims 1, 4-16 and 18-54 are rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,379,927 to Montenieri, *et al.* (“Montenieri”) in view of U.S. Patent No. 5,213,225 to King, *et al.* (“King”). Applicant respectfully traverses the rejection, for at least the following reasons.

Independent claim 1 recites a dispensing nozzle comprising, *inter alia*, first and second sets of external ramps “against each of which sets of ramps respective co-operating portions on the cap may act by ~~relative~~ rotation of the cap ~~and~~ with respect to the nozzle in at least one direction, to provide ~~sufficient~~ relative ~~separation~~ force between the cap and the nozzle body, to separate the engaging formations on the cap and the nozzle from an inter-engaged position” (markup per 37 C.F.R. § 1.121). Applicant respectfully submits that this feature is neither taught nor suggested by Montenieri, taken singly or in combination with King.

Looking to page 5 of the most recent Office Action, in the text of the rejection addressing the clause of claim 1 in which the above quoted features are recited, the Office Action omits citation to either Montenieri or King where the recited structure may be found. In fact, Montenieri does not teach or suggest at least the above quoted features of independent claim 1. For example, and with reference to Figure 12 of Montenieri, rotation of the cap 10 is required to disengage slots 59 from horizontal lock member 28 before any portion of the cap engages the ramp 50. Therefore, the ramp 50 disclosed according to Montenieri is not positioned to provide any force to separate the engaging formations on the cap and the nozzle from an inter-engaged position. To the contrary, it is necessary to rotate the cap to a position where the slot 59 is already disengaged from member 28 before the ramp 50 may apply any separation force. On the other hand, Montenieri illustrates that the lock member 28 is itself horizontal, and not a ramp. This is apparent with reference to a combined interpretation of Figs. 5, 6 and 8 of Montenieri.

Therefore, the structure that is relied upon by the Office Action as reading on the claimed first set of ramps does not meet the features of independent claim 1.

Furthermore, the Office Action looks to reference 17, 18 of King as allegedly teaching a second pair of ramps as recited in independent claim 1. Applicant respectfully disagrees with this interpretation of the reference.

King provides that stops 17, 18, and more particularly the gap between them, accommodate one of the ribs 28 in order to hold the cap 20 in a proper sealed position (Col. 5, line 66 – Col. 6, line 8). Looking to the top plan view, e.g., Figures 4 or 12, the ramp portion therein illustrated is in the radial direction. Accordingly, any interaction between said ramps and the ribs 28 of the cap 20 do not provide a force to separate any engaging formations on the cap from ones on the nozzle as recited in independent claim 1. Therefore, even presuming that one of ordinary skill in the art had an apparent reason to combine King with Montenieri as proposed

in the Office Action, the combination does not teach or suggest all features recited in the independent claim 1.

Furthermore, the Office Action alleges that one of ordinary skill in the art would be motivated to combine the references to make opening the Montenieri device easier (Office Action, page 6). However, King does not teach that the interaction of the ribs 28 with the stops 17, 18 are provided in order to facilitate opening the cap. According to King, these structures are to ensure that an effective seal is consistently achieved while preventing over tightening of the cap on the neck.

In direct opposition to the objective of King, the first of second set of ramps according to independent claim 1 act with respective cooperating portions on the cap to provide relative force between the cap and the nozzle body. Therefore, the motivation proposed in the Office Action is opposite to the explicit disclosure of the reference. Additionally, King requires a lifting action of the cap to raise the ribs 28 out of the slots between stops 17, 18, before rotation. This is precisely opposite to the operation of the structure according to the instant claims, in which a rotation-derived lifting force separates the engaging structures.

Accordingly, one of ordinary skill in the art would not be motivated to combine Montenieri with King as proposed in the Office Action.

Therefore, for any of the forgoing reasons, Applicant respectfully submits that independent claim 1 is patentably distinguished over Montenieri and King, taken singly or in combination. The forgoing comments will be seen as equally applicable where similar structure is recited in independent claims 27 and 46-48. Each of these independent claims will therefore be seen as patentably distinguished for at least the same reasons. Similarly, all dependent claims depending from one of the forgoing patentable independent claims is respectfully submitted as patentable for at least the same reasons as the respective underlying independent base claim.

Application No.: 10/597,800
Amendment dated 19 May 2011
Reply to Office Action of January 19, 2011
Docket No.: ICC-297/PCT/US (500-338 PCT/US)
Page 22

Applicant respectfully submits that the rejection has therefore been overcome, and kindly requests favorable reconsideration and withdrawal.

Claim 17 is rejected under 35 U.S.C. §103(a) as unpatentable over Montenieri in view of King as applied to claim 16, and further in view of U.S. Patent No. 3,252,446 to Bateman (“Bateman”). Applicant respectfully traverses the rejection, for at least the following reasons.

Bateman pertains to a friction closure. In particular, the Office Action cites to Bateman as providing a friction closure with a rap surface that, when engaged, remains visible to a user (Office Action, p. 11). Even presuming that Bateman teaches all that it is attributed to it, and further presuming that there is some apparent reason for one of ordinary skill in the art to combine Bateman with Montenieri and King as proposed in the Office Action, Bateman offers no teaching or suggestion to ameliorate the underlying deficiencies of Montenieri and King as applied to claim 16, or its independent base claim 1, which are discussed more fully above. Therefore, Applicant respectfully submits that dependent claim 17 is patentably distinguished over Montenieri, King and Bateman, taken singly or in any combination. Favorable reconsideration and withdrawal of the rejection is kindly requested.

Conclusion

In light of the forgoing, Applicant respectfully submits that all claims are patentable, and that the application is in condition to pass to issue. An early and favorable Notice of Allowability is kindly solicited. If the Examiner has any reservation in allowing the application, and believes that a telephone interview would advance prosecution, he is kindly requested to telephone Applicant’s undersigned representative at his earliest convenience.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account

Application No.: 10/597,800
Amendment dated 19 May 2011
Reply to Office Action of January 19, 2011
Docket No.: ICC-297/PCT/US (500-338 PCT/US)
Page 23

No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David J. Torrente', written over a horizontal line.

David J. Torrente
Registration No.: 49,099
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700